

REMARKS

Claims 12-15 and 18-31 are now pending in this application. Claims 12-22 are rejected. Claims 16 and 17 are cancelled. Claims 1-11 are previously cancelled. New claims 23-31 are added. Claim 12 is amended herein to clarify the invention and to express the invention in alternative wording.

Applicant herein traverses and respectfully requests reconsideration of the rejection of the claims cited in the above-referenced Office Action.

Claims 12-16, 18 (and 19) are rejected as obvious over Diaz et al. (US 6,908,452) in view of Mann et al. (US 5,957,890) under 35 U.S.C. §103(a). Claim 16 is cancelled herein, rendering its rejection moot. The applicant herein respectfully traverses this rejection as pertaining to the remaining claims. For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art.

It is respectfully submitted that a *prima facie* case of obviousness cannot be established in rejection of amended claims 12-15, 18 and 19. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of

success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." MPEP §706.02(j) "Contents of a 35 U.S.C. §103 Rejection".

Independent claim is amended to recite, *inter alia*, the following:

a tubular body having opposed ends connected
with one another, said tubular body being expandable
and contractible such that said tubular body expands
when medical fluids are injected into said tubular
body, and said medical fluids are expelled by pressure
produced by subsequent contraction of said tubular
body

Applicant respectfully submits that this feature not taught or suggested by either Diaz et al. or Mann et al.

There is no disclosure in Diaz et al. that would suggest that the reservoir 24, which is being equated with the tubular body of the claimed invention by the Examiner, is expandable and subsequently contractible to effect expulsion of the medical fluids introduced therein. Similarly, tube 30 taught by Mann et al. is not

disclosed as having these claimed characteristics. Indeed, expansion and contraction is unimportant, and perhaps detrimental, to operation of the invention of Mann et al., since the only purpose of the wound tube 30 is to serve as a capillary restrictive element which insures substantially constant flow of medication traveling through the tube. (See col. 4, lines 60-67).

Therefore, the proffered combination of references fails to teach all elements as claimed, and as properly required for establishing a *prima facie* case of obviousness. Thus, it is respectfully submitted that the rejected claims are not obvious in view of the cited references for the reasons stated above. Reconsideration of the rejections of claims 12-15, 18 and 19 and their allowance are respectfully requested.

Claim 17 is rejected as obvious over Diaz et al. in view of Mann et al., and further in view of Davis (US 3,217,949) under 35 U.S.C. §103(a). Claim 17 is cancelled herein, rendering the rejection moot.

Claims 20-22 are rejected as obvious over Diaz et al. in view of Mann et al., and further in view of Lee (US 6,024,724) under 35 U.S.C. §103(a). The applicant herein respectfully traverses this rejection.

It is respectfully submitted that the proffered combination of references cannot render the rejected claims obvious because the Lee reference, offered for its teaching relating to the interactive arrangement of the branch conduit and the affixing member, does not provide the teaching noted above, with respect to the obviousness

rejection of parent claim 12, that is absent from the Diaz et al. and Mann et al. references. Thus, the combination of prior art references fails to teach or suggest all the claim limitations. Therefore, reconsideration of the rejections of claim 17 and its allowance are respectfully requested.

Claims 23-31 are added and are submitted as patentable over the cited art of record. Independent claim 23 recites subject matter directed to a wound tubular body which is expandable and contractible such that the tubular body expands when medical fluids are injected into it and subsequently elastically contracts causing the medical fluids to be expelled by the contraction pressure which, among other features recited therein, is not believed disclosed in the cited art in the manner as claimed. Dependent claims 24-31 are patentable based on the subject matter recited therein in addition to the subject matter of claim 23.

Applicant respectfully requests a two (2) month extension of time for responding to the Office Action. Please charge the fee of \$230 for the extension of time to Deposit Account No. 10-1250.

The USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form
for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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